IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Kailash Chandra. Versus Smt. Girja.

S.B. Criminal Misc. Petition No. 834/2006 against the order dated 8-2-2006 passed by the Additional Chief Judicial Magistrate, Kapasan, district Chittorgarh, in Criminal Case No.93/2003.

...

Date of Order: October 10, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Vinit Kumar Mathur, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By this criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 8-2-2006 passed by the Additional Chief Judicial Magistrate, Kapasan, district Chittorgarh (for short, "the trial Court" hereinafter) in Criminal Case No. 93/2003, whereby the trial Court granted monthly allowance of interim maintenance @ Rs.600/- per month in favour of the non-petitioner and against the petitioner from the date of the application.

I have heard learned counsel for the petitioner. Perused the order impugned.

It is contended by the learned counsel for the petitioner that the monthly allowance of interim maintenance granted by the trial Court is on the higher side. It has further been contended that impugned order granting monthly allowance of interim maintenance from the date of the application is bad in law.

On careful perusal of the order impugned, it appears that the petitioner has not disputed that the non-petitioner is his legally wedded wife. The monthly allowance of interim maintenance is granted on the pleadings of the parties and it is an interim arrangement on an application filed by the non-petitioner under Section 125 of the Code. It also appears from the order impugned that the non-petitioner has come with the plea that the petitioner, despite having sufficient means, failed to maintain and neglected her and also contacted second marriage with some other lady. It was further pleaded that she has no independent source of income to maintain herself.

In my opinion, keeping in view the material available on record, the trial Court was justified in granting the monthly allowance of interim maintenance @ Rs.600/- per month in favour of the non-petitioner against the petitioner from the date of application. Keeping in view the decision of a Division Bench

of this Court in Smt. Savita Sharma Vs. Shri Krishan Murari, 1990 (1) RLR 400, the order impugned granting monthly allowance of interim maintenance from the date of application cannot be said to be erroneous.

In this view of the matter, I do not find any merit in the criminal miscellaneous petition and it is, therefore, dismissed.

(H.R. PANWAR), J.

mcs